UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
STALLARD, JOSEPH A

ART UNIT	PAPER NUMBER
3715	

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

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	Application No.	Applicant(s)
Office Action Summary	10/712,938	TIMBADIA ET AL.
	Examiner	Art Unit	
	J. Andrew Stallard	3715	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**.　　2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-27* is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-27* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>13 November 2003</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All　b)☐ Some * c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
　　Paper No(s)/Mail Date *8/20/2004*.

4) ☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Pfenninger et al. (US 2001/0031457).

Claim 1: Pfenninger discloses a system for administering an examination comprising: one or more testing stations (22), configured to receive a plurality of test items and to display the test items to a user (*[0006], 1-4; A personal computer receives and displays test items.*), and wherein the one or more testing stations are further configured to record state information comprising time elapsed from the start of the examination (*[0030], 6; Test subjects are only allotted a limited amount of time to complete a test, so a station must know the time elapsed.*), identification of test items displayed to the user, and user interactions with the testing stations (*[0032], 1-5; A station records and displays the test items (web pages), and records and processes the user interactions (mouse pointing and clicking).*); a first server computer system in communication with the one or more testing stations (16), wherein the first server computer system is configured to electronically transmit the test items to the one or more testing stations

([0031], 18-21; The server computer system provides a test to the test subject.) and to

receive user information *(Tester ID)* and responses to the test items from the one or

more testing stations *([0034], 1-2; The responses to the test items (raw answers) are*

received by the server computer system (web server).), and wherein the first server

computer system is further configured to receive the state information from the one or

more testing stations and to electronically store the state information *([0042], 1-3; The*

web server stores the status of the tests at the testing stations and the administrator can

view the status page.); and a second server computer system in communication with

the first server computer system *(18)*, wherein the second server computer system is

configured to receive user information and responses to the test items from the first

server computer system *([0035], 1-7; The responses to the test items (test answers)*

and the user information (information on the test taker) are downloaded by the second

server computer system (18).) and to deliver test packages to the first server computer

system *([0038], 1-3; The second server delivers test packages (test reports) to the first*

server computer system (16).).

Claims 2 and 3: Pfenninger discloses that the first server computer system

communicates with the one or more testing stations via a distributed network wherein

the distributed network is the Internet *(Fig. 1; The first server computer system (16)*

communicates with a testing station (22) via the Internet (24).).

Claim 4: Pfenninger discloses that the one or more testing stations are further

configured to store the test items in volatile memory *([0032]; The test items can be web*

pages which would be stored in volatile memory (RAM) before being displayed to the user.).

Claim 5: Pfenninger discloses that the first server computer system comprises: one or more computers configured to perform the functions of a web server (*[0024]; The first server computer system (16) can perform the functions of a web server.*), a servlet engine (*[0028], 4-6; The first server computer system provides dynamic-page generated pages for a test administrator.*) and an application server (*[0039][0040]; The first server computer system (16) provides a test administrator workspace application that performs the functions as described.*); and one or more data storage devices (*A web server must have one or more data storage devices.*).

Claim 6: Pfenninger discloses that the one or more testing stations are further configured to periodically deliver to the first server computer system changes to the state information (*[0033]; After 24 hours, the test station delivers the state that the time to complete the test is over and the test subject has not completed the test, and the Tester ID is no longer valid.*).

Claim 7: Pfenninger discloses that the one or more testing stations are further configured to deliver to the first server computer system changes to the state information upon the user interacting with the testing station (*[0031], When a user has performed the proper actions, state information that the user is ready to take a test is sent, and a test is provided.*).

Claim 8: Pfenninger discloses that second server computer system comprises: one or more computers; one or more data storage devices; and a package migration tool

configured to properly format the test packages prior to delivery to the first server computer system (*[0036]; Test packages (test reports) are formatted in XML and PDF format and are permanently stored on the second server computer system (18). Permanent storage implies one or more data storage devices.*).

Claim 9: Pfenninger discloses that the package migration tool is further configured to manage the use of subsequent versions of the test packages (*[0034], 7-12; Software manages versions of tests by using modules.*).

Claim 10: Pfenninger discloses that the second server computer system is further configured to score the responses to the test items (*[0035]*).

Claims 11-12, 17-18 and 26-27: Pfenninger discloses that the examination is a linear examination or an adaptive examination (*[0026]; Tests can encompass both linear examinations and adaptive examinations, such as the Devine Inventory ([0044]).*).

Claim 13: Pfenninger discloses a method of administering an examination to a user over a distributed network comprising: synchronizing an initial state object on a server and on one or more testing stations in communication with the server, wherein the initial state object comprises the time within which the examination must be completed and the test items to be presented to the user (*[0008]; A test administrator can receive from the server the time within which the examination must be completed (allotted time deadline) and the tests that are presented to the user. As in Fig. 1, the test administrator receives the test information from the server (16).*); delivering a plurality of test items to one or more testing stations (*[0009], 5-7; The test items are delivered to the test taker at the testing station (place where the testing workplace is accessed).*);

displaying the plurality of test items to the user and recording the users responses

(*[0032], 1-5*); and delivering to the server a changed state object comprising the time

elapsed in the examination, the test items presented to the user, and the user's

responses to the test items. (*[0062]; The test administrator receives, on the completed

tests page, the date and time the subject completed the test and a test report showing

the test results.*).

Claims 14, 16 and 25: Pfenninger discloses that the changed state object is delivered

to the server upon a triggering event occurring on the testing station wherein triggering

event is the user interacting with the testing station (*[0062]; The changed state object is

delivered to the server when the user interacts with the testing station (i.e. completes

the test), and the test administrator receives it from the server.*).

Claim 15: Pfenninger discloses that the triggering event is the passage of a

predetermined period of time (*[0064]; The state object is also delivered to the server

when the time allotted for the test has expired.*).

Claims 19 and 21: Pfenninger discloses that upon failure of the testing station, the

initial state object and the changed state objects stored on the server are used to

recreate the examination on the testing station at the point of the examination where the

failure occurred (*[0033]; If power to the test taker interface is interrupted, the test

subject can complete the test at a later time.*).

Claim 20: Pfenninger discloses a method of managing the state of an examination, the

method comprising: delivering identification of the examination to be administered on

one or more testing stations to a server computer (*[0007]; The administrator workspace*

allows a user to identify to the server the tests to be ordered and then administered.);

creating an initial state object on the server computer wherein the initial state object

defines the initial state of the examination (*[0013]*); delivering the initial state object to

the one or more testing stations (*[0031]; A test is delivered to a test subject by a testing*

workspace, which contains the initial state of the examination.); recording each user

interaction with the one or more testing stations (*[0032], 1-5*); and delivering changes to

the initial state object from the one or more testing stations to the server computer

(*[0063]; The initial state object is delivered to the server, and can be viewed with the*

"Test in Progress" page.).

Claim 22: Pfenninger discloses a method of delivery test items to a testing station for

purposes of presenting an examination to a user, the method comprising: creating a

cache list on a server computer wherein the cache list comprises identification of test

components to be delivered to the testing station; delivering the cache list to the testing

station; delivering a first set of the test components to the testing station, wherein the

first set of the test components are delivered at commencement of the examination

(*[0031], 18 – [0032], 5; The server contains a list of test components (components in a*

series of web pages, which display questions). The list is delivered to the testing

workspace, which is accessed by the test subject at a testing station. The set of test

components is then delivered to the testing station and displayed to the test subject.);

and delivering one or more subsequent sets of the test components to the testing

station upon occurrence of a trigger event on the testing station (*Subsequent sets of*

test components would be delivered as needed to complete the test.).

Claim 23: Pfenninger discloses that the step of delivering the one or more subsequent sets of the test components is performed to maintain a predetermined number of undisplayed test components on the testing station (*[0032]; The test components are displayed in a browser. Browsers download the components before they are displayed.*).

Claim 24: Pfenninger discloses that the test components are used to create test items (*The components make up the web pages (test items).*).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Harter et al. (US 6,212,564) discloses dynamic-page generation using servlets. Kershaw et al. (US 5,827,070) discloses computer based testing methods. Silva et al. (US 6,014,760) discloses automatic testing over a network. Hoehn-Saric et al. (US 5,915,973) discloses remotely proctored, secure examinations.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Andrew Stallard whose telephone number is (571) 272-2685. The examiner can normally be reached on 9:15 am to 6:45 pm - Mon - Fri (1st Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on (571) 272-4475. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

J. Andrew Stallard
Examiner
Art Unit 3715

MONICA S. CARTER
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